

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

SUNG KOOK (BILL) HWANG; PATRICK HALLIGAN;
WILLIAM TOMITA; SCOTT BECKER; and
ARCHEGOS CAPITAL MANAGEMENT, LP,

Defendants.

No. 1:22-cv-3402 (JPO)

**DECLARATION OF ERIC A. HIRSCH IN SUPPORT OF DEFENDANT ARCHEGOS
CAPITAL MANAGEMENT, LP'S MOTION TO DISMISS THE COMPLAINT**

ERIC A. HIRSCH hereby declares pursuant to 28 U.S.C. § 1746:

1. I am a Counsel with the law firm of King & Spalding LLP, attorneys for Defendant Archegos Capital Management, LP (“ACM”) in the above-captioned action, and a member in good standing of the bar of this Court. I respectfully submit this Declaration in support of ACM’s motion to dismiss the Complaint (Dkt. #1).

2. Attached as Exhibit 1 is a copy of the January 22, 2013 Order Instituting Administrative Proceedings, Making Findings, And Imposing Remedial Sanctions by the Securities and Exchange Commission (“SEC”) in the action captioned, *In the Matter of Sung Kook Hwang*, Release No. 3535, File No. 3-15181 (Sec. & Exch. Comm’n, Jan. 22, 2013).

3. Attached as Exhibit 2 is a copy of excerpts of the Form ADV filed by Tiger Asia Management, LLC on or about May 24, 2012.

4. Attached as Exhibit 3 is a copy of an investor alert titled, “Investor Bulletin: Understanding Margin Accounts,” publicly posted by the SEC’s Office of Investor Education

and Advocacy, last modified on June 11, 2021.

5. Attached as Exhibit 4 are copies of excerpts from the Form ADVs filed by Hudson Bay Capital Management LP, Paloma Partners Management Company, and Samlyn Capital, LLC on March 30, 2022, March 31, 2022, and March 30, 2022, respectively.

6. Attached as Exhibit 5 is a copy of the July 29, 2021 Credit Suisse Group Special Committee of the Board of Directors Report on Archegos Capital Management.

7. Attached as Exhibit 6 are excerpts from the Brief of Amici Curiae filed by the International Swaps and Derivatives Association, Inc. and Securities Industry and Financial Markets Association in the matter captioned, *CSX Corp. v. Children's Inv. Fund Mgmt. (UK) L.L.P.*, 08 Civ. 2764 (LAK), (S.D.N.Y. June 2, 2008).

8. Attached as Exhibit 7 is a copy of excerpts from the November 2007 Consultation Text titled, "Disclosure of Contracts for Difference," made publicly available by the United Kingdom Financial Services Authority.

9. Attached as Exhibit 8 is a copy of a May 24, 2022 *Bloomberg* article titled, "Take the Swaps off the Balance Sheet," by Matt Levine.

10. Attached as Exhibit 9 is a copy of a chart listing the closing prices of the S&P 500 average from March 20, 2020 to March 19, 2021.

11. Attached as Exhibit 10 is a copy of a chart listing the closing prices of the Dow Jones Industrial Average from March 20, 2020 to March 19, 2021.

12. Attached as Exhibit 11 is a copy of a March 11, 2020 *The Wall Street Journal* article titled, "The 30 Minutes That Can Make or Break the Trading Day," by Gunjan Banerji.

13. Attached as Exhibit 12 is a chart listing the closing prices for Archegos' Top 10

Holdings during the week of March 22, 2021.

14. Attached as Exhibit 13 is a copy of a March 24, 2021 ViacomCBS Inc. press release with the subject line, “ViacomCBS Prices Offerings of Class B Common Stock and Mandatory Convertible Preferred Stock.”

15. Attached as Exhibit 14 is a copy of a March 24, 2021 *Bloomberg* article titled, “China Considers Creating State-Backed Company to Oversee Tech Data,” by Lulu Yilun Chen.

16. Attached as Exhibit 15 is a copy of March 24, 2021 Press Release issued by the SEC titled “SEC Issues Amendments, Seeks Public Comments on Holding Foreign Companies Accountable Act.”

17. Attached as Exhibit 16 is a copy of the Form 6-K filed by Nomura Holdings, Inc. with the SEC on April 27, 2021.

18. Attached as Exhibit 17 is a copy of excerpts from the Form 6-K filed by UBS Group AG and UBS AG with the SEC on April 27, 2021.

19. Attached as Exhibit 18 is a copy of a March 31, 2021 *The Wall Street Journal* article titled, “SEC Probes Trading by Archegos That Rattled Stock Market,” by Dave Michaels.

20. Attached as Exhibit 19 is a copy of an October 8, 2021 *Bloomberg* article titled, “SEC Investigating Archegos for Potential Market Manipulation,” by Heather Perlberg, Matt Robinson, and Sridhar Natarajan.

21. Attached as Exhibit 20 are copies of the reports of proceedings before U.S. Magistrate Judge Jennifer E. Willis reflecting Sung Kook (Bill) Hwang and Patrick Halligan’s

not guilty pleas in the action captioned *United States v. Sung Kook (Bill) Hwang and Patrick Halligan*, Case No. 22-cr-240 (S.D.N.Y.).

22. Attached as Exhibit 21 is a copy of the Complaint in the action captioned, *Commodity Futures Trading Commission v. Archegos Capital Management, LP and Patrick Halligan*, Case No. 22-cv-3401 (S.D.N.Y.).

23. Attached as Exhibit 22 is a copy of a February 22, 2021 Discovery, Inc. press release titled, “Discovery, Inc. Reports Fourth-Quarter and Full Year 2020 Results,” issued by Discovery, Inc.

24. Attached as Exhibit 23 is a copy of excerpts from a July 29, 2021 Credit Suisse Group AG press release titled, “Credit Suisse posts CET1 ratio of 13.7% and pre-tax income of CHF 813 mn in 2Q21.”

25. Attached as Exhibit 24 is a copy of the transcript from the April 22, 2022 proceedings before Hon. Laura Taylor Swain in the action captioned, *United States v. William Tomita*, Case No. 22-cr-231 (S.D.N.Y.).

Dated: June 28, 2022
New York, New York

/s/ Eric A. Hirsch
Eric A. Hirsch